CF/- CF-1007

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH
WRIT PETITION NO. 4027 /2006

PETITIONER : Shri M.L. Sahu,
S/O. Late Ramdhan Sahu,
aged about - 60 years,
Asstt. Grade II, Clerk, (Retired)
P.W.D. Champa,
Division Champa,
Distt. Janjgir Champa (C.G.)
R/O. Near B.D. Mahant Primary School
New Chandaniyapara Janjgir,
Distt. Janjgir Champa (C.G.)

P.R. No. 4089/06
Presented by Shri R.C. Pathak
on 29/7/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh,
Through - The Secretary,
Public Works Department,
D.K.S. Bhawan, Raipur,
Distt. - Raipur (C.G.)

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Sudhakar
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2. Superintending Engineer,
Publice, Works Department
Division Bilaspur, Bilaspur
Distt. Bilaspur (C.G.)

OATH COMMISSIONER
APARNA MALVIYA
CG-2073/96
29/07/06
Bilaspur Chhattisgarh

3. Executive Engineer,
Public Works Department
Division Pendra, Pendra
District - Bilaspur (C.G.)

4. Executive Engineer,
Public Works Department
Division Champa, Champa
Distt. Janjgir Champa (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

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XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP.ND. 402 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10-08-2006

Shri P.K. Patel, counsel for the petitioner.

Shri Satish Gupta, Deputy Govt. Advocate for the State/ respondents, on advance copy.

Heard.

By the instant petition, the petitioner has challenged the correctness and propriety of the order Annexure-P/1 dated 5-5-2006 issued by the Superintending Engineer, Public Works Department, Bilaspur Division, Bilaspur, whereby the Superintending Engineer has held that the recovery to the tune of Rs.2,61,241/- is to be made from the petitioner on account of the fact that when the petitioner was in-charge of the Store of Pendra Road of PWD, at the time of handing over the charge by the petitioner, 62 cement bags were found missing. Similarly, 261 drums of Tar and other items were also found missing for which the petitioner was not able to account for, which the petitioner is disputing.

Perusal of the record shows that in the first instance on 3-4-91 when the petitioner was holding the charge of Store Keeper, an explanation of the petitioner was sought by the Executive Engineer that the material to the tune of Rs.3,05,566.70/- was found missing and the petitioner was asked to explain within 15 days. In pursuance of that, the petitioner submitted his explanation on 26-2-91. After considering the explanation submitted by the petitioner, again show cause notices were issued to the petitioner on 27-3-92 and 16-10-92. Reply of the same was submitted by the petitioner after 12 years of the issuance of the show cause notice which is evident from the impugned order. After considering the reply submitted by the petitioner, the Superintending Engineer reached

P.T.O.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

to the conclusion that for 62 bags of cement and 261 drums of Tar apart from other items the petitioner was not able to account for and ultimately he held that the petitioner is responsible for the loss caused to the Department to the tune of Rs.2,61,241/-.

Learned counsel for the petitioner submitted that without conducting the enquiry, the order has been passed.

Perusal of the order reveals that in the first instance, the petitioner was asked to give explanation and same was considered and thereafter, a show cause notice was issued to him. The petitioner took 12 years to file reply of the same. After considering same, order has been passed and still the petitioner disputes the order. Therefore, disputed facts are involved in this case which requires a detailed enquiry by tendering the documents as also the oral evidence, which cannot be gone into in the writ jurisdiction. However, if the petitioner has any grievance against the impugned order, then the proper remedy for the petitioner is to approach the civil Court for redressal of his grievances where a detailed enquiry can be conducted.

Since disputed facts are involved in this case, this writ petition is not maintainable, same is liable to be dismissed and it is hereby dismissed.

Consequently, M.(W.)P.No.3131/2006 stands disposed of.

Sd/-
L.C. Bhadoo
Judge

Barve

P.T.O.